

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Jose Luis Pita-Mota,

Petitioner,

v.

USA,

Respondent.

No. CV-13-02141-PHX-GMS

No. CR-09-1114-PHX-GMS

ORDER

This action was initially filed on October 21, 2013 on a Motion to Vacate, Set Aside or Correct Sentence (Doc. 1).

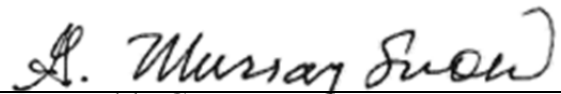
On November 12, 2014, Magistrate Judge Burns issued a Report and Recommendation (“R&R”) (Doc. 6). After the time to respond and/or object to the R&R had expired, on December 5, 2014, the Court issued its Order accepting the R&R and directing the Clerk of Court to enter Judgment (Docs. 7, 8). On May 11, 2015, five months later, Petitioner filed a Motion to Vacate Clerk’s Judgment and after its initial review, but before Respondent was able to respond, the Court entered an Order (Doc. 10) vacating its initial order accepting the R&R and reopening the action. Petitioner was given until July 10, 2015 to file a response and/or objection to the R&R. On May 21, 2015, the Respondent filed a Motion for Reconsideration and Response to the Motion to Vacate (Doc. 11). The Court then directed Petitioner to respond to the Motion for Reconsideration by June 17, 2015 (Doc. 13). Instead of responding, on June 22, 2015, Petitioner filed a Motion for Leave to Amend and Memorandum (Docs. 14, 16). Petitioner did not file a response to the Motion for Reconsideration until July 20, 2015

(Doc. 22) and never filed a response and/or objection to the R&R which was due on July 10, 2015. In light of this,

IT IS ORDERED as follows:

1. Respondent's Motion for Reconsideration (Doc. 11) is **granted**.
2. The R&R (Doc. 6) is **accepted** and Petitioner's Motion to Vacate, Set Aside or Correct Sentence (Doc. 1) is **denied and dismissed with prejudice**, as detailed in the Court's Order (Doc. 7).
3. Petitioner's Motion to for Leave to Amend (Doc. 14) is **denied as moot**.
4. The Clerk of Court shall terminate this action.
5. Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, in the event Movant files an appeal, the Court declines to issue a certificate of appealability because reasonable jurists would not find the Court's procedural ruling debatable. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Dated this 28th day of July, 2015.



Honorable G. Murray Snow
United States District Judge